

ORDINANCE NO. 3999

AN ORDINANCE OF THE CITY OF NAMPA, CANYON COUNTY, IDAHO ANNEXING REAL PROPERTY LOCATED AT 1406 EAST IOWA STREET INTO THE CITY OF NAMPA, CANYON COUNTY, IDAHO AND ZONING THE SAME RS-6 SUBJECT TO THE TERMS OF THAT CERTAIN DEVELOPMENT AGREEMENT ENTERED INTO BETWEEN THE APPLICANT AND THE CITY OF NAMPA; AND DIRECTING THE CITY ENGINEER TO ALTER THE USE AND AREA MAP ACCORDINGLY.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF NAMPA, IDAHO:

Section 1: That the following described real property located at 1406 East Iowa Street, and all thereof, be, and the same is hereby, ANNEXED and made a part of the City of Nampa, Idaho. That the real property hereby annexed is described as follows, to-wit:

See Exhibit A attached hereto and, by this reference, incorporated herein as if set forth in full.

Section 2: That the following described portion of the Exhibit A real property so annexed, shall be ZONED RS-6.

Section 3: That this annexation and zone ordinance is subject to and limited by that certain Development Agreement entered into between the parties.

Section 4: That the City Engineer is hereby directed to alter and change the Use and Area Map of the City of Nampa, Idaho, to comply with this Ordinance.

PASSED BY THE COUNCIL OF THE CITY OF NAMPA, IDAHO, THIS 3rd DAY OF January, 2012.

APPROVED BY THE MAYOR OF THE CITY OF NAMPA, IDAHO, THIS 3rd DAY OF January, 2012.

Approved:

By

Tom Dale
Mayor

Attest:

Debra L. Bush
City Clerk

RECORDED

2012 JAN 3 09:10

RECORDED

201200052

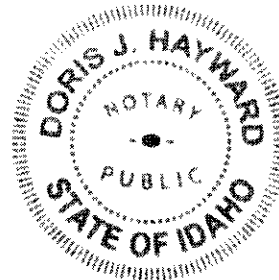
State of Idaho)

Canyon County)

On this 3rd day of January, 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared Tom Dale and Deborah Bishop known to be the Mayor and City Clerk, of the City of Nampa, Idaho, a municipal corporation, who executed the foregoing instrument.

In Witness Whereof, I have hereunto set my hand and affixed by official seal, the day and year in this certificate first above written.

Doris J. Hayward
Doris J. Hayward
Residing at: Nampa, Canyon County, Idaho
My Commission Expires: 08/22/2013



North Parcel

(Basis of Bearings from Record of Survey recorded February 4, 1987 as instrument no. 8702515, records of Canyon County, Idaho.)

A portion of vacated Block 196, Amended Plat of KURTZ ADDITION to Nampa, Canyon County, Idaho as shown on the official plat thereof filed in Book 2 of Plats at Page 37, records of said county and being a portion of the South Half of the South Half of the Southeast Quarter of the Northeast Quarter of Section 34, Township 3 North, Range 2 West of the Boise Meridian, Canyon County, Idaho together with streets and alleys that have been vacated, more particularly described by metes and bounds as follows, to-wit:

COMMENCING at the Southeast corner of the said Northeast Quarter of Section 34 and running thence

North 00° 36' 25" East, 309.96 feet (formerly North 310 feet) along the East boundary line of the aforesaid Section 34 to the centerline of Hawaii Avenue as shown on aforesaid plat; thence along said centerline

North 89° 12' 55" West (formerly West), 181.00 feet to the Real Point of Beginning; thence continuing

North 89° 12' 55" West (formerly West) 189.00 feet to the centerline of the vacated Almond Street as shown on said plat; thence

South 00° 36' 25" West, 109.96 feet; thence along a line parallel to the said Hawaii Avenue

South 89° 12' 55" East 189.00 feet,; thence along said centerline of Almond Street

North 00° 36' 25" East, 109.96 feet to the Real Point of Beginning.

2008060475

RECORDED

2008 NOV 14 AM 11 22

WILLIAM H. HURST
CANYON COUNTY RECORDER
BY *[Signature]*

PIONEER TITLE COMPANY

REQUEST
TYPE *[initials]* FEE *600*

Middle Parcel

(Basis of Bearings from Record of Survey recorded February 4, 1987 as instrument no. 8702515, records of Canyon County, Idaho.)

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South 89° 12' 55" East, 205.00 feet to a point; thence

North 00° 36' 25" East, 99.56 feet to a point; thence

North 89° 12' 55" West, 205.00 feet to the Real Point of Beginning.

2009061573

RECORDED

2009 DEC 4 AM 11 19

WILLIAM H. JORST

CANYON COUNTY RECORDER

BY *[Signature]*

REQUEST *[Signature]*
TYPE *[Signature]*

Exhibit A - 3

South Parcel

(Basis of Bearings from Record of Survey recorded February 4, 1987 as instrument no. 8702515, records of Canyon County, Idaho.)

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South 00° 36' 25" West, 99.56 feet to the intersection of the South boundary line of the Northeast Quarter of aforesaid Section 34; thence along said South boundary

South 89° 04' 40" East, 205.00 feet to a point; thence

North 00° 36' 25" East, 100.04 feet to a point; thence along a line parallel to the aforesaid Hawaii Avenue

North 89° 12' 55" West, 205.00 feet to the Real Point of Beginning.

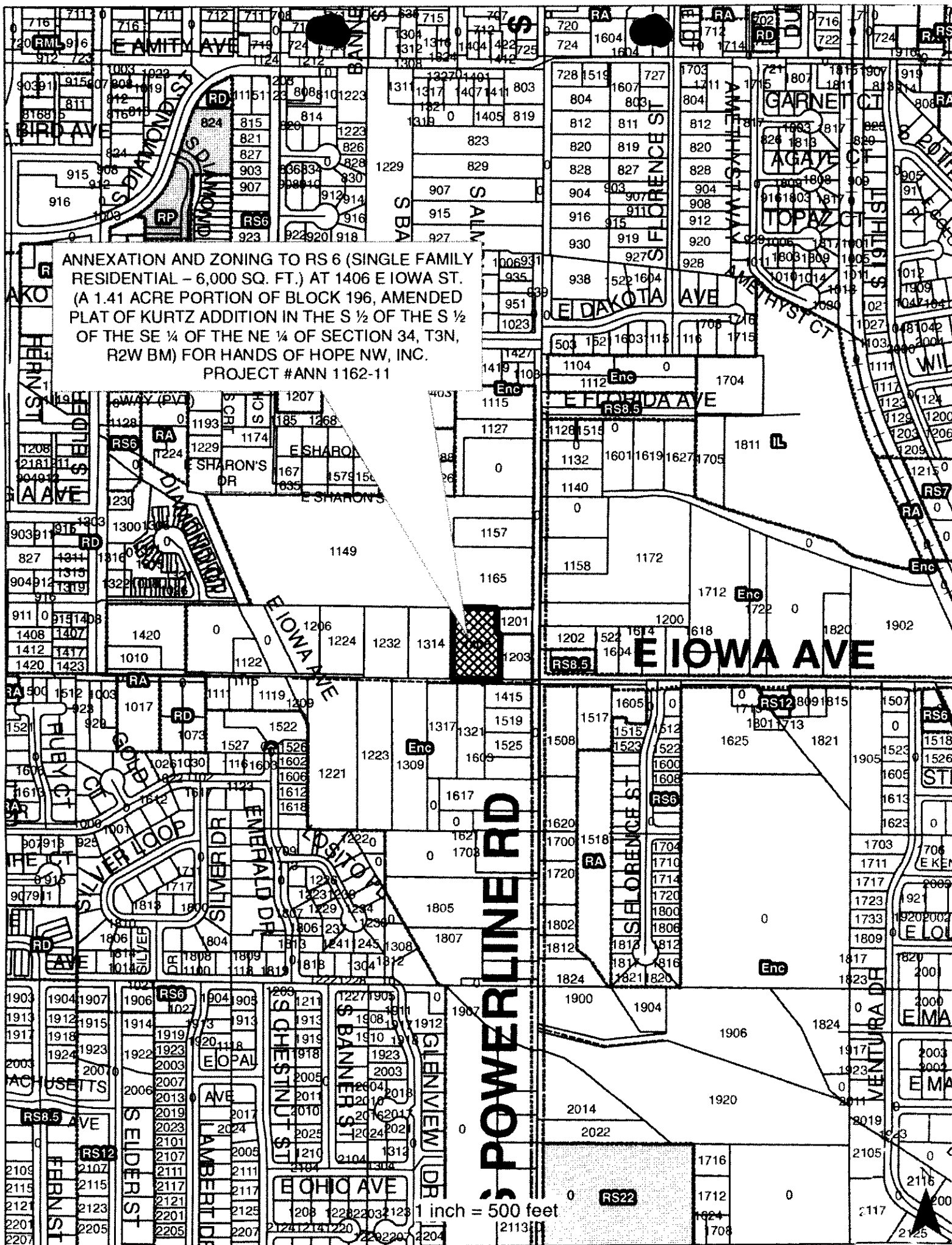
2009061572

RECORDED

2009 DEC 4 AM 11 19

WILLIAM H. HURST
CANYON COUNTY RECORDER
BY *D. M. Hurst*

REQUEST *Paul Miller*
TYPE *100* FEB 10 2009



ANNEXATION AND ZONING TO RS 6 (SINGLE FAMILY RESIDENTIAL - 6,000 SQ. FT.) AT 1406 E IOWA ST. (A 1.41 ACRE PORTION OF BLOCK 196, AMENDED PLAT OF KURTZ ADDITION IN THE S 1/2 OF THE S 1/2 OF THE SE 1/4 OF THE NE 1/4 OF SECTION 34, T3N, R2W BM) FOR HANDS OF HOPE NW, INC. PROJECT #ANN 1162-11

POWERLINE RD

1 inch = 500 feet

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement"), is made and entered into this 30th day of Dec, 2011 (the "Effective Date"), by and between the City of Nampa, a municipal corporation, hereinafter referred to as the "City," and Hands of Hope NW, Inc. hereinafter referred to as "Owner/Developer."

RECITALS

- A. Owner/Developer is the owner of approximately 1.41 acres of real property legally described in **Exhibit "A"** attached hereto and made a part hereof (the "Property").
- B. Owner/Developer applied to City on 06 of September 2011, (the "date of application") for annexation and zoning of the Property to RS 6 (Single Family Residential, 6,000 sq. ft. min. buildable property size) in anticipation of the development and construction of an additional religious facility warehouse type structure and accessory improvements (the "Project"; alternatively the "Proposed Use") for the Hands of Hope NW, Inc. -- a not for profit organization.
- C. City, pursuant to Section 10-2-5, Nampa City Code, and Idaho Code Section 67-6511A, has the authority to annex the Property and enter into a development agreement for the purpose of allowing, by agreement, a specific development to proceed in a specific area and for specific purposes and/or uses that are appropriate in the area.
- D. City's Planning and Zoning Commission and City's City Council have held public hearings as prescribed by law with respect to the rezoning and development of the Property and this Agreement. City has approved the requested annexation and zoning of the Property to RS 6 subject to the terms and commitments contained in this Agreement.

AGREEMENT

NOW THEREFORE, in consideration of the above recitals, which are incorporated below, and of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

- 1. This Agreement shall not prevent City, in subsequent actions applicable to the Property, from applying new ordinances and regulations of general application adopted by City in the exercise of its police powers that do not conflict with the parties' commitments applicable to the Property as set forth herein, or the zoning designation approved hereby as the Property has been deemed suitable for the uses allowed within said zoning designation.
- 2. The Project shall be developed in substantial conformance with the conceptual plan set attached hereto as **Exhibit "B"** (the "**Conceptual Plan**") and made a part hereof provided and with those conditions affixed to this Agreement known as **Exhibit "C"**; however, Owner/Developer shall have limited flexibility to develop the Property to meet market conditions (varying thereby from Exhibit B). Upon recordation of this Agreement, Owner/Developer shall

have all annexation/rezoning related approvals required from City for development of the Project provided such is in substantial conformance/accordance with the approved Conceptual Plan.

3. This Agreement is intended to be supplemental to all other local, city, state and federal Code requirements, rules and regulations, and is established to help assure the compatibility of the resulting land use with the surrounding area. Provided, however, that to the extent this Agreement conflicts with any provision of the Nampa City Code, this Agreement shall prevail to the extent permitted by law.

4. The provisions and stipulations of this Agreement shall be binding on City, Owner/Developer, each subsequent owner of the Property or portion thereof, and each other person acquiring an interest in the Property and are, in no particular order, as set forth in the body of this Agreement and in the additional conditions of approval section attached hereto as **Exhibit "C"**, and by this reference incorporated herein.

5. This Agreement may be modified only by the written agreement of Owner/Developer and the City after complying with the notice and hearing procedures required under Idaho Code Section 67-6511A or Nampa City Code Section 10-2-5(D) or successor provisions.

6. The execution of this Agreement and the written commitments contained herein shall be deemed written consent to change the zoning of the Property to its prior designation upon failure of Owner/Developer to comply with the terms and conditions of this Agreement. Provided, however, that no such consent shall be deemed to have been given unless City provides written notice of any such failure and Owner/Developer or its successors and/or assigns fails to cure such failure as set forth below.

7. This Agreement and the commitments contained herein shall be terminated, and the zoning designation reversed, upon the failure of Owner/Developer, or each subsequent owner or each person acquiring an interest in the Property, to comply with the commitments contained herein within two (2) years after the Effective Date, and after the notice and hearing requirements of Idaho Code Section 67-6509 have been complied with by City. Exception: the failure to begin site development of all or a portion of a project proposed under this Agreement does not necessarily serve as impetus to allege that the commitments contained herein are not being fulfilled. Rather, commencement of site work and/or construction then left in abandon or failure to abide by the terms of this Agreement, as herein iterated, shall serve as impetus to consider termination of this Agreement and reversion of zoning. Provided, however, no such termination or reversal shall occur unless City provides written notice of Owner/Developer's failure to comply with the terms and conditions of this Agreement to Owner/Developer and Owner/Developer fails to cure such failure within six (6) months of Owner/Developer's receipt of such notice. The two (2) year period of time for compliance with commitments may be extended by City for good cause upon application for such extension by Owner/Developer, and after complying with the notice and hearing provisions of Idaho Code Section 67-6509.

8. Except as specifically set forth in this Agreement, the rules, regulations and official policies governing permitted uses of land, density, design, improvements and construction standards and specifications applicable to the Project and the Property shall be those rules, regulations and official policies in effect as of the date of annexation. Provided, however, that

the applicable building codes for structures shall be the codes in effect when a complete application for a Building Permit is filed. Development impact fees, if imposed by ordinance, shall be payable as specified in said ordinance even if the effective date is after the date of this agreement or the annexation pursuant thereto.

9. It is intended by the parties that this Agreement shall be recorded on the Effective Date or as soon as practicable thereafter. The parties further intend that the provisions of this Agreement shall run with the Property and shall be binding upon City, Owner/Developer, each subsequent owner of the Property, and each other person or entity acquiring an interest in the Property.

10. If any term or provision of this Agreement, to any extent, shall be held invalid or unenforceable, the remaining terms and provisions herein shall not be effected thereby, but each such remaining term and provision shall be valid and enforced to the fullest extent permitted by law.

11. This Agreement sets forth all promises, inducements, agreements, conditions and understandings between Owner/Developer and City relative to the subject matter hereof. There are no promises, agreements, conditions or understandings, whether verbal or written, express or implied, between Owner/Developer and City, other than as are stated herein. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties hereto unless reduced to writing and signed by the parties or their successors-in-interests or their assigns, and pursuant, with respect to the City, to a duly adopted ordinance or resolution of the City.

12. Should any litigation be commenced between the parties hereto concerning this Agreement, the prevailing party shall be entitled, in addition to any other relief as may be granted, to court costs and reasonable attorneys' fees as determined by a court of competent jurisdiction.

13. This Agreement may be executed in counterparts, each of which shall constitute an original, all of which together shall constitute one and the same Agreement.

14. In the event Owner/Developer, its successors, assigns or subsequent owners of the Property or any other person acquiring an interest in the Property, or in the event City, fail to faithfully and materially comply with all of the terms and conditions included in this Agreement, enforcement of this Agreement may be sought by either City or Owner/Developer or by any successor or successors in title or interest or by the assigns of the parties hereto, in an action at law or in equity in any court of competent jurisdiction.

a. A waiver by City of any default by Owner/Developer of any one or more of the covenants or conditions hereof shall apply solely to the breach waived and shall not bar any other rights or remedies of City or apply to any subsequent breach of any such or other covenants and conditions. A waiver by Owner/Developer of any default by City of any one or more of the covenants and conditions hereof shall apply solely to the breach waived and shall not bar any other rights or remedies of Owner/Developer or apply to any subsequent breach of any such or other covenants and conditions.

b. Notwithstanding anything to the contrary herein, in the event of a material default of this Agreement, the parties agree that City and Owner/Developer shall have thirty (30)

days after delivery of notice of such default to correct the same prior to the non-defaulting party's seeking of any remedy provided for herein; provided, however, that in the case of any such default which cannot with diligence be cured within such thirty (30) day period and thereafter shall prosecute the curing of same with diligence and continuity, then the time within which such may be cured shall be extended for such period as may be necessary to complete the curing of the same with diligence and continuity, but in any event not to exceed six (6) months; and provided further, however, no default by a subsequent owner of a portion of the Property shall constitute a default by Owner/Developer for the portion of the Property still owned by Owner/Developer.

c. In the event the performance of any obligation to be performed hereunder by either Owner/Developer or City is delayed for causes that are beyond the reasonable control of the party responsible for such performance, which shall include, without limitation, acts of civil disobedience, strikes or similar causes, the time for such performance shall be extended by the amount of time of such delay.

d. In addition to the remedies set forth above, in the event of a default by Owner/Developer, or any other party claiming an interest herein, City may withhold building permits for any remaining lots within the development until such time as the default is cured.

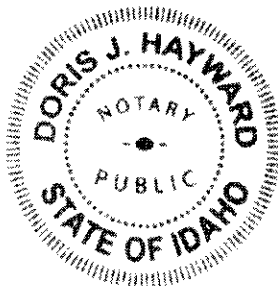
Tom Dale
Tom Dale, Mayor

Attest: Debbie Bishop, City Clerk

Todd R. Parker
on Behalf of
Hands of Hope NW, Inc.

On this 3rd day of January, in the year of 2012, before me Doris J. Hayward, personally appeared Tom Dale, known or identified to me, to be the Mayor of the City of Nampa, whose name is subscribed to the within and foregoing instrument and acknowledged to me that he executed the same, and was so authorized to do so for and on behalf of said City of Nampa.

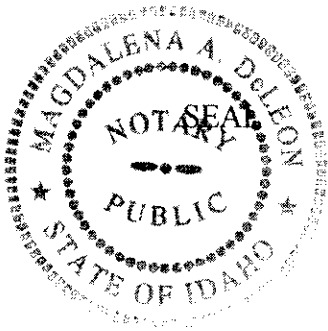
Doris J. Hayward
Doris J. Hayward
Residing at: Nampa, Canyon County, Idaho
My Commission Expires: 08/22/2013



STATE OF IDAHO)
) ss.
County of Canyon)

On this 30 day of December, in the year of 2011 before me,
Magdalena A. DeLeon, personally appeared Todd Hebischer, known or
identified to me, to be Executive Director, of Hunk of Hope Northwest, the
owner/developer whose name is subscribed to the within and foregoing instrument and
acknowledged to me that he executed the same for and on behalf of _____.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the
day and year first above written.



Magdalena A. DeLeon
Notary Public for State of Idaho
Residing at Canyon County, Nampa ID
Commission Expires Jan 17, 2013

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

RECORDER SCAN

Exhibit A

North Parcel

(Basis of Bearings from Record of Survey recorded February 4, 1987 as instrument no. 8702515, records of Canyon County, Idaho.)

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South 89° 12' 55" East 189.00 feet; thence along said centerline of Almond Street North 00° 36' 25" East, 109.96 feet to the Real Point of Beginning.

2008060475

RECORDED

2008 NOV 14 AM 11 22

WILLIAM H. HURST
CANYON COUNTY RECORDER
BY *[Signature]*

PIONEER TITLE COMPANY

RECEIVED
TYPE A *[Signature]* FEE 6.00

Exhibit A

Middle Parcel

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2009061573

RECORDED

2009 DEC 4 AM 11 19

WILLIAM H. HURST
CANYON COUNTY RECORDER
BY *[Signature]*

REQUEST *[Signature]*
TYPE *[Signature]*

Exhibit A

South Parcel

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2009 DEC 4 AM 11:19
RECORDED
WILLIAM H. HURST
CANYON COUNTY RECORDER
BY *William H. Hurst*
REQUEST *Paul Miller*
TYPE *100* FEE *6.00*

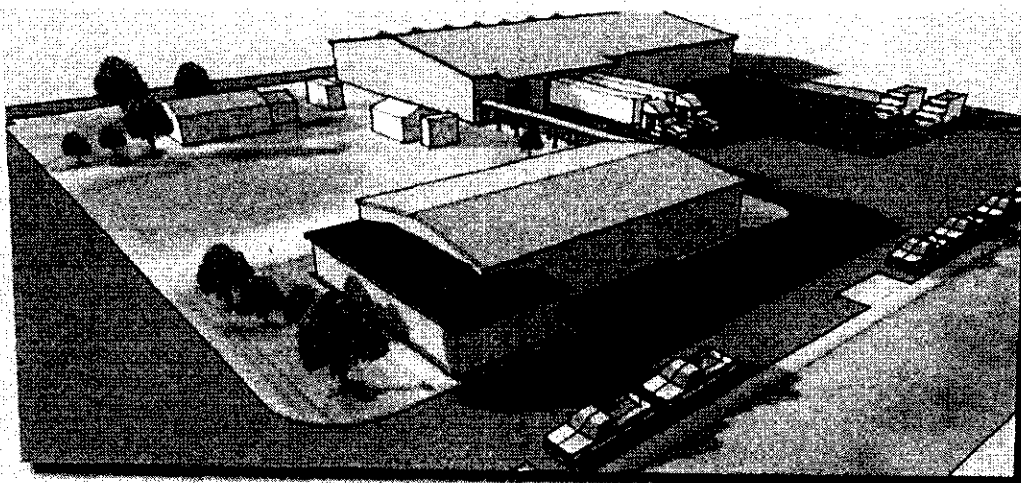
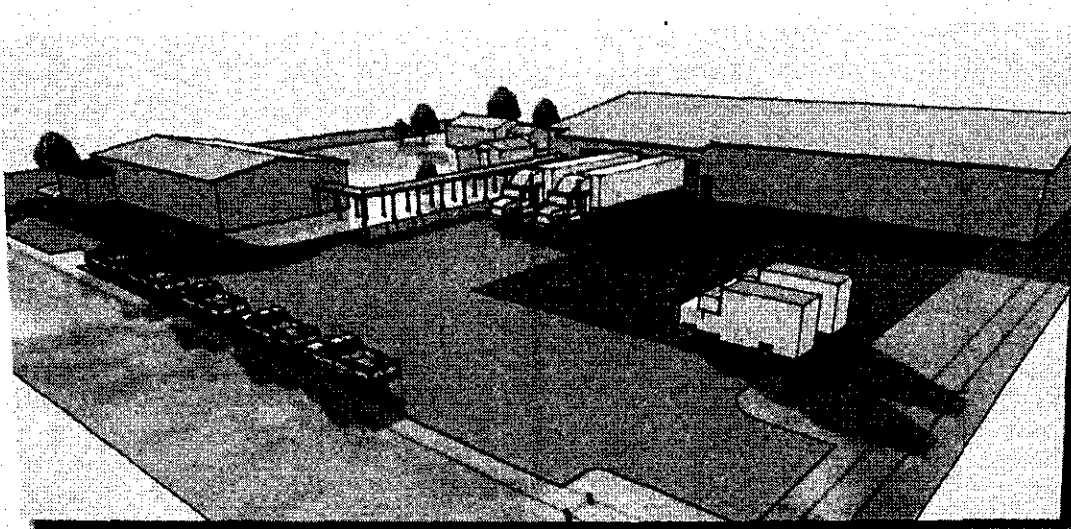
2009061572

EXHIBIT "B"

CONCEPTUAL PLANS OF PROPERTY DEVELOPMENT AND BERMING
(APPLICANT'S "DEVELOPMENT AGREEMENT" BETWEEN PARTIES)

RECORDER SCAN





Hands of Hope Northwest



- LANDSCAPE BUFFERS: 5' REQUIRED, 10' PROVIDED
- PARKING: (4) RETAINED, (18) ADDED
- PAVED AREA: 18,576 SF NEW ASPHALT, 11,328 SF NEW GRAVEL

PROPOSED SITE PLAN

HANDS OF HOPE NORTHWEST
1201 S. POWERLINE ROAD
CSHQ

NAMPA, IDAHO

C. W. MOORE ROAD
200 S. 9TH ST. - ROOM 202
200 S. 9TH ST. - ROOM 202
200 S. 9TH ST. - ROOM 202

RENT & MAINT. AGREEMENT
C. W. MOORE ROAD
200 S. 9TH ST. - ROOM 202
200 S. 9TH ST. - ROOM 202
200 S. 9TH ST. - ROOM 202

**PRELIMINARY
NOT FOR
CONSTRUCTION**

EXHIBIT "C"

[ADDITIONAL] CONDITIONS OF APPROVAL

1. Prior to the third reading of the annexation and zoning ordinance the Owner/Developer shall dedicate any additional right-of-way, as defined/required by the City Engineer as follows:

- S. Powerline: As may be required at time of Building Permit application.
- East Iowa Avenue: Width of right-of-way dedication shall be 30' from centerline (as half of ultimate/future 60' right-of-way span); and,

2. The Owner/Developer may elect to enter into a Deferral Agreement with the City to defer construction of property street frontage improvements. In the event Owner/Developer elects to enter into said Agreement, the City shall oblige and enter into said Agreement with the Owner/Developer. The Agreement shall provide that improvements to S. Powerline and/or East Iowa be required, emplaced and otherwise provided by the Owner/Developer (or successor thereto) at such time a change of use of the Property takes place in accordance with Nampa City Code § 10-1-6, or, upon notification by the City to construct said improvements in accordance with Nampa City Code § 9-1-8: Curbs, Gutters and Sidewalks (Ord. 3371), or an LID for this area is created. The contemplated improvements (to be addressed in any Deferral Agreement) are and shall include, but not be limited to, installation of:

- Curb, gutter and sidewalk
- Landscaping (as required by code)
- Stormdrainage
- Pavement widening and striping; and moreover,

S. Powerline shall improved at that time by the Owner/Developer (or successor thereto) from and between the points where the Property's north and south side property lines intersect the front property line of the Property which is also a part or section of the western right-of-way street line of S. Powerline Road. East Iowa Avenue shall be improved at that time by the Owner/Developer (or successor thereto) to the westerly limits of the Property to create a local rural road section in accordance with ISPWC standard drawing SD-802. (Minimum pavement width to be 24'; pavement minimum thickness to be 2 1/2" thick); and,

3. Site improvement emplacement and landscape berming, as depicted in Exhibit B CONCEPTUAL PLANS OF PROPERTY DEVELOPMENT AND BERMING (APPLICANT'S "DEVELOPMENT AGREEMENT" BETWEEN PARTIES), shall be established (and in the case of the landscaping, planted and provided with irrigation) by the Owner/Developer prior to issuance of an Occupancy Permit for the newly proposed warehouse structure on the Property (also required by N.C.C. § 10-1-6.1-5); and,

4. The applicant and any successors thereto along with the Property and any proposed development thereon comply with all applicable codes, laws and ordinances appertaining to Property development as this Agreement shall not have the effect of abrogating, nullifying, altering, amending or otherwise providing exception to the same except as specifically delineated by the terms and conditions of this Agreement; and,

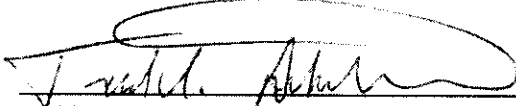
Development Agreement Between Hands of Hope Northwest, Inc. and Roy and Teresa Britton

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into this 19th day of December, 2011 ("Effective Date") by and between Hands of Hope Northwest, Inc., a Faith-Based 501(c)3 non-profit organization and Roy and Teresa Britton, individual property owners, setting forth the terms of agreement for development of a landscaping barrier between land proposed for annexation by Hands of Hope Northwest, Inc. and adjacent property owned by Roy and Teresa Britton.

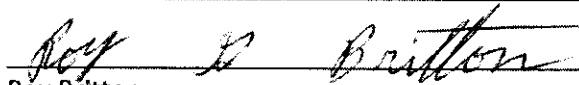
It is agreed that:

1. A landscaping berm shall be designed and established in accordance with the conceptual design shown in Exhibit "A" of this agreement, consisting of:
 - a. Between the Britton's land and existing Hands of Hope Northwest, Inc. building/property: a barrier of Columnar Pear and Arborvitae to be planted on Hands of Hope Northwest, Inc. property, next to the current chain-link fence (refer to section "A" of Exhibit "A").
 - b. Between the Britton's land and site of proposed new Hands of Hope Northwest, Inc. warehouse: a three foot landscaped berm, planted with Columnar Pear and Austrian Pine (refer to Section "B" of Exhibit "A").
2. Both parties agree that the landscaping barriers for both Section "A" and Section "B" will be constructed upon initiation of the construction of the new warehouse, allowing for utilization of the excavated dirt for building of indicated berms.
3. This agreement sets forth all promises, inducements, agreements, conditions and understandings between Hands of Hope Northwest, Inc. and Roy and Teresa Britton relative to the subject matter hereof. There are no promises, agreements, conditions or understandings, whether verbal or written, express or implied, between the two parties other than are stated herein. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties hereto unless reduced to writing and signed by the parties or their successors-in-interests or their assigns.

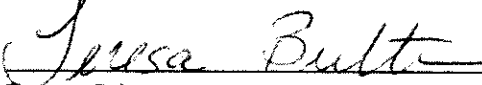
Hands of Hope Northwest, Inc.


Todd D. Aebischer, Executive Director

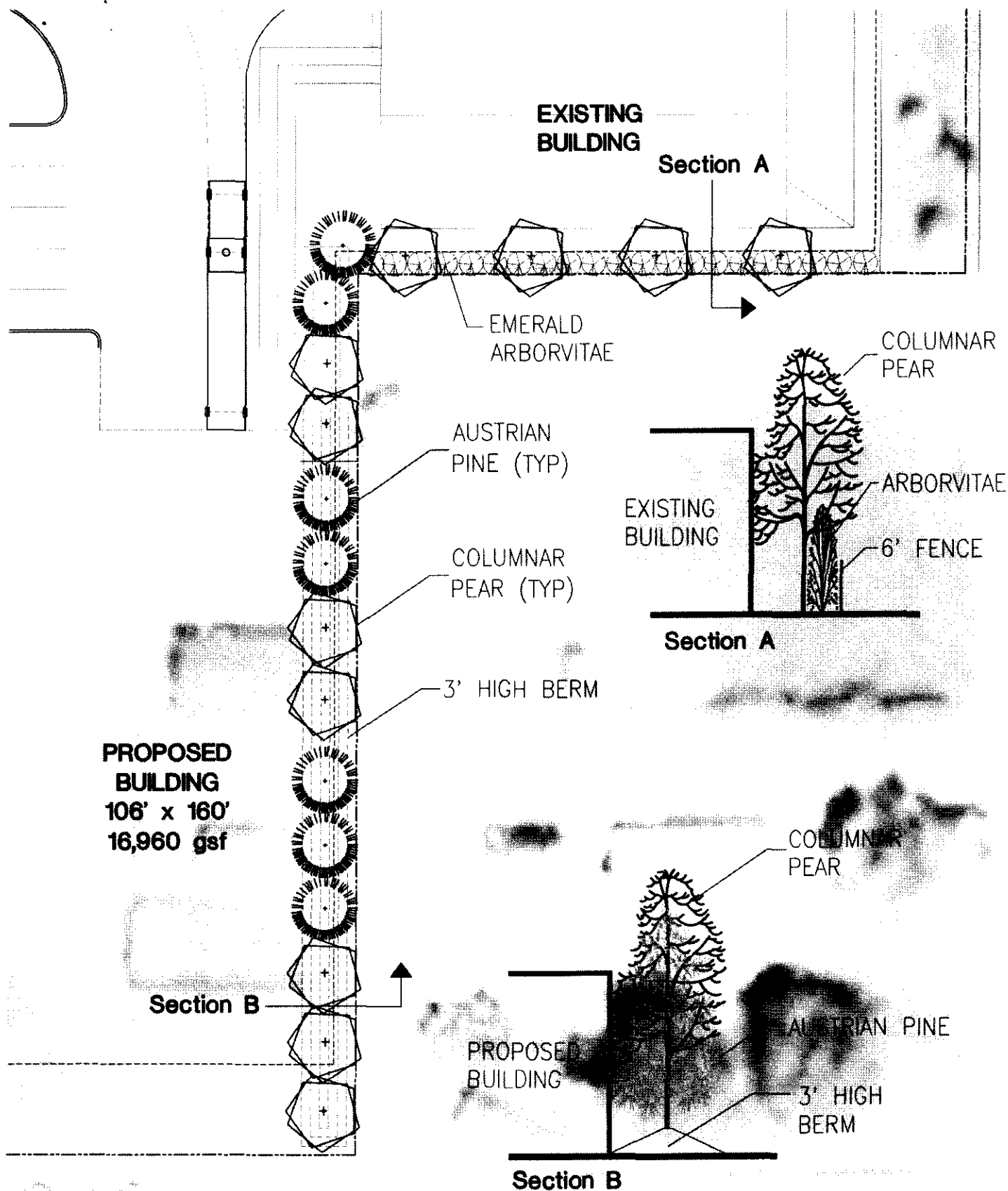
12/14/2011
Date


Roy Britton

12/19/2011
Date


Teresa Britton

12/19/2011
Date



E IOWA AVE.



LANDSCAPE SCREENING

SCALE 1" = 30'-0"

Exhibit "A"

